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| APPLICATION NO.          | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.  | CONFIRMATION NO. |
|--------------------------|-------------|----------------------|----------------------|------------------|
| 10/686,089               | 10/14/2003  | Tatsunori Yamamoto   | 259052003600         | 6818             |
| 25226                    | 7590        | 10/10/2006           | EXAMINER             |                  |
| MORRISON & FOERSTER LLP  |             |                      | MAGEE, CHRISTOPHER R |                  |
| 755 PAGE MILL RD         |             |                      | ART UNIT             |                  |
| PALO ALTO, CA 94304-1018 |             |                      | PAPER NUMBER         |                  |
|                          |             |                      | 2627                 |                  |

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |   |  |  |
|------------------------------|---|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/686,089    | <b>Applicant(s)</b><br>YAMAMOTO ET AL. |  |
|                              | <b>Examiner</b><br>Christopher R. Magee | <b>Art Unit</b><br>2627                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 9-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/14/03;05/10/06</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Species I, claims 1-8, in the reply filed on 09/27/06 is acknowledged.
2. Claims 9-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 09/27/06.

### ***Priority***

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

4. The information disclosure statement(s) (IDS) submitted on 10/14/03 and 05/10/06 is/are in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statement.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Applicant's Admitted Prior Art (AAPA; Specification page 2, lines 10-23; Figs. 14 and 17) in view of Ohta et al. (hereinafter Ohta) (US 5,109,368).

- Regarding claims 1, 3 and 6, AAPA shows an optical pickup device for recording/reproducing information to/from an optical recording medium, comprising:

- a light source 2 for emitting light;

- a condensing unit 3 for condensing the light from the light source onto an optical recording medium;

- a light receiving unit having a light sensing device 5 for receiving light reflected by the optical recording medium;

- a light leading unit 4 having an opposed lens which faces the light sensing device, for leading the light reflected by the optical recording medium to the light sensing device through the opposed lens [Figs. 14 and 17]; and

- a housing 7 for holding the light sensing device so as to be rotatable around the reference axis line which is parallel to the optical axis of the opposed lens and so as to be displaceable in the direction perpendicular to the reference axis line, holding the opposed lens so as to be displaceable along the optical axis.

The AAPA does not show a cylindrical dustproof member for covering the full periphery of an optical path extending between the opposed lens and the light sensing device and the housing holding the dustproof member so that both ends in the axial direction are displaceable in the axial direction by the intermediate portion in the axial direction.

Referring to claim 1, Ohta teaches a cylindrical dust-proof device 8 for an optical pickup device, which can completely shield the optical pickup device from a dust intrusion path while minimizing the influence of the shield on frequency characteristic of an objective lens driving mechanism [col. 2, lines 21-29; Fig. 2].

Referring to claim 2, Ohta teaches the dustproof member is made of an elastic material [col. 5, lines 27-31].

Referring to claim 4, Ohta shows the dustproof member expands towards both ends in the axial direction [Fig. 7].

Referring to claim 5, Ohta shows the dustproof member is formed in bellows shape [Fig. 6B].

Referring to claim 7, Ohta shows at least the surface of a contact portion, which is in contact with the light emitting device 15 of the dustproof surface is formed as a curved surface [Figs. 2 and 6B].

Referring to claim 8, Ohta teaches the dust blocking device 8 is made from soft rubber material [col. 6, lines 46-51] and it is well known that soft rubber materials can be black in color. Hence, the inner peripheral face of the dust proof device is black.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the optical pickup device of the AAPA with a cylindrical dustproof member

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for covering the full periphery of an optical path extending between the opposed lens and the light sensing device as taught by Ohta.

The rationale is as follows: One of ordinary skill in the art at the time of the invention would have been motivated to provide the optical pickup device of the AAPA with a cylindrical dustproof member for covering the full periphery of an optical path extending between the opposed lens and the light sensing device as taught by Ohta in order to shield the optical pickup device from a dust intrusion path while minimizing the influence of the shield on frequency characteristic of an objective lens driving mechanism [Ohta; col. 2, lines 21-29; Fig. 2].

### ***Conclusion***

6. The prior art made of record and not relied upon that is considered pertinent to applicant's disclosure has been annotated on PTO-492.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Magee whose telephone number is (571) 272-7592. The examiner can normally be reached on M-F, 8: 00 am-4: 30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Christopher R. Magee  
Patent Examiner  
Art Unit 2627

September 30, 2006  
crm



WILLIAM KORZUCH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600